

PTO/SB/64 (10-08)

Approved for use through 11/30/2008. OMB 0651-0031

U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

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1/Jan DAC ✓

**PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT  
ABANDONED UNINTENTIONALLY UNDER 37 CFR 1.137(b)**

Docket Number (Optional)

CG-80107

First named inventor: Suresh C. Srivastava

Application No.: 10/768,996

Art Unit: 1642

Filed: January 30, 2004

Examiner: Brandon J. Fetterolf, Ph.D.

Title: NOVEL OLIGONUCLEOTIDES AND RELATED COMPOUNDS

Attention: Office of Petitions

**Mail Stop Petition**

Commissioner for Patents

P.O. Box 1450

Alexandria, VA 22313-1450

FAX (571) 273-8300

NOTE: If information or assistance is needed in completing this form, please contact Petitions Information at (571) 272-3282.

The above-identified application became abandoned for failure to file a timely and proper reply to a notice or action by the United States Patent and Trademark Office. The date of abandonment is the day after the expiration date of the period set for reply in the office notice or action plus an extensions of time actually obtained.

**APPLICANT HEREBY PETITIONS FOR REVIVAL OF THIS APPLICATION**

NOTE: A grantable petition requires the following items:

- (1) Petition fee;
- (2) Reply and/or issue fee;
- (3) Terminal disclaimer with disclaimer fee - required for all utility and plant applications filed before June 8, 1995; and for all design applications; and
- (4) Statement that the entire delay was unintentional.

**1. Petition fee**

☒ Small entity-fee \$ 810.00 (37 CFR 1.17(m)). Applicant claims small entity status. See 37 CFR 1.27.

☐ Other than small entity - fee \$ \_\_\_\_\_ (37 CFR 1.17(m))

**2. Reply and/or fee**

A. The reply and/or fee to the above-noted Office action in the form of Amendment and Responsive reply to Office Action of 2/26/08 (identify type of reply):

☒ has been filed previously on 9/26/08 and 9/30/08  
☐ is enclosed herewith.

B. The issue fee and publication fee (if applicable) of \$ \_\_\_\_\_

☐ has been paid previously on \_\_\_\_\_  
☐ is enclosed herewith.

[Page 1 of 2]

This collection of information is required by 37 CFR 1.137(b). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1.0 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **SEND TO: Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

12/02/2008 SSITHIB1 00000004 10768996 If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

01 FC:2453

810.00 DP

12/02/2008 SSITHIB1 00000004 10768996

01 FC:2453

810.00 DP

3. Terminal disclaimer with disclaimer fee

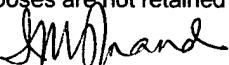
☒ Since this utility/plant application was filed on or after June 8, 1995, no terminal disclaimer is required.

☐ A terminal disclaimer (and disclaimer fee (37 CFR 1.20(d)) of \$ \_\_\_\_\_ for a small entity or \$ \_\_\_\_\_ for other than a small entity) disclaiming the required period of time is enclosed herewith (see PTO/SB/63).

4. STATEMENT: The entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional. [NOTE: The United States Patent and Trademark Office may require additional information if there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137(b) was unintentional (MPEP 711.03(c), subsections (III)(C) and (D)).]

**WARNING:**

Petitioner/applicant is cautioned to avoid submitting personal information in documents filed in a patent application that may contribute to identity theft. Personal information such as social security numbers, bank account numbers, or credit card numbers (other than a check or credit card authorization form PTO-2038 submitted for payment purposes) is never required by the USPTO to support a petition or an application. If this type of personal information is included in documents submitted to the USPTO, petitioners/applicants should consider redacting such personal information from the documents before submitting them to the USPTO. Petitioner/applicant is advised that the record of a patent application is available to the public after publication of the application (unless a non-publication request in compliance with 37 CFR 1.213(a) is made in the application) or issuance of a patent. Furthermore, the record from an abandoned application may also be available to the public if the application is referenced in a published application or an issued patent (see 37 CFR 1.14). Checks and credit card authorization forms PTO-2038 submitted for payment purposes are not retained in the application file and therefore are not publicly available.

  
Signature

11/28/08  
Date

Inu M. Anand, Esq.  
Typed or printed name

52,557  
Registration Number, if applicable

15 Green Way  
Address

(978) 250-9003  
Telephone Number

Chelmsford, MA 01824  
Address

Enclosures: ☒ Fee Payment

☐ Reply

☐ Terminal Disclaimer Form

☒ Additional sheets containing statements establishing unintentional delay

☐ Other: \_\_\_\_\_

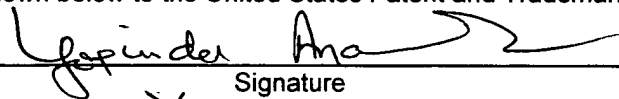
**CERTIFICATE OF MAILING OR TRANSMISSION [37 CFR 1.8(a)]**

I hereby certify that this correspondence is being:

☒ Deposited with the United States Postal Service on the date shown below with sufficient postage as first class mail in an envelope addressed to: Mail Stop Petition, Commissioner for Patents, P. O. Box 1450, Alexandria, VA 22313-1450.

☐ Transmitted by facsimile on the date shown below to the United States Patent and Trademark Office at (571) 273-8300.

11/28/08  
Date

  
Signature

Inu M. Anand  
Typed or printed name of person signing certificate



DAC

Attorney Docket No.: ChG\_00107

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

Inventors: Suresh C. Srivastava, Satya P. Bajpai and Kwok-Hung Sit  
Assignee of Part interest: ChemGenes Corporation  
Application Serial No.: 10/768,996  
Filed: January 30, 2004  
Title: NOVEL OLIGONUCLEOTIDES AND RELATED COMPOUNDS  
Art Unit: 1642  
Examiner: Brandon J. Fetterolf, Ph.D.

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**TRANSMITTAL COVER LETTER**

**MAIL STOP PETITIONS**

Commissioner for Patents  
P.O.Box 1450  
Alexandria, VA 22313-1450

Re: Revival for Unintentional Abandonment

Sir:

Enclosed herewith please find the following documents for a petition to revive pursuant to 37 CFR 1.137(b), the above-referenced Nonprovisional Patent Application that was unintentionally abandoned for failure to file a timely reply:

- Certificate of Mailing ( page 2 of this paper);
- Petition, Form PTO/SB/64;
- Two sheets of FAX transmission covers that show the date/time stamps of receipt of the Response to Office Action of February 26, 2008, received in two parts, on September 26<sup>th</sup> and 27<sup>th</sup>;
- Statement by Dr. S.C. Srivastava, President of ChemGenes Corporation, detailing the circumstances leading to the delay in filing the response;
- Payment by Credit Card, Form PTO-2038, to cover the Petition Fee;
- Return Receipt Postcard;

Application Serial No.: 10/768,996  
Srivastava, et al.

Attorney Docket No.: ChG\_00107


The dispatch of Office Action of February 26, 2008, to the clients rather than to this office contributed to our miscalculation, and the consequent delay in filing the response to the last office action. As the filing, albeit delayed, of the response shows, the applicants did not intend to abandon the prosecution of this application.

We, therefore, urge you to kindly reinstate the application for examination of the already filed reply to the last office action.

In case of any deficiency in the compliance or fees, you are requested to kindly contact the undersigned representative.

Dated: November 28, 2008

Respectfully submitted,

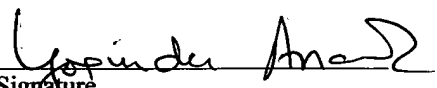
By   
Indu M. Anand  
Registration Number: 52,557  
15 Green Way  
Chelmsford, MA 01824  
(978) 250-9003/ (617) 930-5000

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CERTIFICATE OF MAILING UNDER 37 CFR 1.08

I hereby certify that this correspondence is being deposited with sufficient postage affixed with the United States Postal Service on the date signed, addressed to:

Mail Stop Petition Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

  
Signature

Y. Anand  
(Name)

11/28/08  
Date

Sep 26 08 11:53p

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SEP 26 2008



15 Green Way, Chelmsford, MA 01824, USA; Tel: 978-250-2103; FAX: 978-250-7404

Indu M. Anand, Esq.

Fax

To: USPTO, Central FAX From: Indu M. Anand  
Fax: 1-571-273-8300 Pages: Twenty nine, including this cover  
Phone: 1-571-272-4000 Date: 9/28/2008  
Re: Patent App Ser. No. 10/788,883

☐ Urgent

☐ Comments

Details:

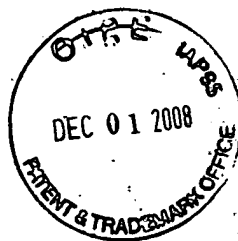
Inventors: Suresh C. Srivastava, Satya P. Bainsaj and Kwok-Hung Si  
Assignee of Part Interest: CleveGenes Corporation  
Filed: January 30, 2004  
Title: NOVEL OLIGONUCLEOTIDES AND RELATED COMPOUNDS  
Art Unit: 1642  
Examiner: Brandon J. Fetterolf, Ph.D.

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SEP 29 2003



15 Carson Village, Chelmsford, MA 01824, USA; Tel: 978-220-6000; FAX: 978-220-7404

Indu M. Anand, Esq.

**Fax**

To: USPTO, Central FAX From: Indu M. Anand  
Fax: 1-571-273-8900 Pages: ~~Twenty-two~~ **Four**, including this cover  
Phone: 1-571-272-4000 Date: 9/23/2003  
Re: Patent App Ser. No. 10/760,869

☐ Urgent

☐ Comments

Details:

Inventors: Sunesh C. Srivastava, Satya P. Rajpai and Kwok-Hung Sit  
Assignee of Part Interest: Olan-Gates Corporation  
Filed: January 30, 2004  
Title: NOVEL OLIGONUCLEOTIDES AND RELATED COMPOUNDS  
Art Unit: 1642  
Examiner: Brandon J. Fetterolf, Ph.D.



**ChemGenes**

ChemGenes Corporation, 33 Industrial Way, Wilmington, MA 01887

(978) 694-4500

Toll Free: 1-800-762-9323

FAX: (978) 694-4502

Date: November October 21, 2008

Page 1 of 2

**Mail Stop Petition  
Commissioner for Patents  
P. O. Box 1450  
Alexandria, VA 22313-1450**

Re: Application Number: 10/768,996  
Filing Date: January 30, 2004  
Applicants: Suresh C. Srivastava, Satya P. Bajpai and Kwok-Hung Sit  
Title: NOVEL OLIGONUCLEOTIDES AND RELATED COMPOUNDS  
Date of Last Notice: 9/30/2008  
Art Unit: 1642  
Examiner: Brandon J. Fetterolf, Ph.D.

Dear Sirs:

This statement is submitted as part of the petition to revive the above-referenced non-provisional application under 37 CFR 1.137(b), in response to the Notice of Abandonment mailed by the United States Patent and Trademark Office on 9/30/2008.

I understand that this Notice resulted from our failure to timely file a response to the Office Action dated 02/26/2008.

I regret the lapse, but we filed a reply on September 26, 2008, the receipt for which is enclosed herewith. I give below for your consideration the reasons for our miscalculation of the due date and consequent delay in filing the reply. We shall submit further evidence of any of the facts presented herein, if necessary.

We retained the services of Attorney Indu M. Anand to prosecute this application early in 2007, and filed the power of attorney on March 3, 2007. The acceptance of this power of Attorney was communicated to us on June 11, 2007, but we were later informed that the acceptance was in error. A new power of attorney was filed on behalf of all the inventors on January 15, 2008, which was duly accepted.

The Office Action of 2/26/08, however, was mailed to me as the first named inventor. Since we expect all communications, especially the important and time sensitive ones, to be sent to Attorney Anand, this communication was misfiled in our office for several weeks, resulting in a miscalculation of the due date for reply. The entire delay in prosecution resulted from an oversight, not from an intention to abandon the application.

*"BioTechnology Products & Manufacturer of DNA-RNA Intermediates"*



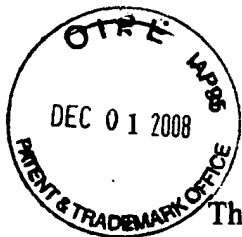
ChemGenes Corporation, 33 Industrial Way, Wilmington, MA 01887

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Toll Free: 1-800-762-9323

FAX: (978) 694-4502

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Thus, whereas we had no intention to abandon the application and actually filed a reply, albeit on a date past due; whereas our miscalculation resulted in part from a misdirected communication from the USPTO; and, whereas the entire delay in filing of our requisite reply was unintentional, we therefore request revival of the Nonprovisional Patent Application Number 10/768,996 for prosecution.

Yours faithfully,

A handwritten signature in black ink, appearing to read 'S. Srivastava'.

Suresh C. Srivastava  
President and CEO